



**US Army Corps
of Engineers®**
Portland District

Crims Island Section 536 Habitat Restoration Project Lower Columbia River and Estuary

APPENDIX E

LETTERS OF SUPPORT, COMMENT LETTERS, AND DRAFT MEMORANDUM OF AGREEMENT

Project Partners:

**U.S. Army Corps of Engineers
U.S. Fish and Wildlife Service
Bonneville Power Administration
U.S. Geological Survey
Columbia Land Trust**

April 2004



Oregon

John A. Kitzhaber, M.D., Governor

December 6, 2001

Department of Fish and Wildlife

Northwest Region
17330 SE Evelyn Street
Clackamas, OR 97015-9514
(503) 657-2000
FAX (503) 657-2050



Charles E. Stenvall, Project Leader
Julia Butler Hansen NWR
U. S. Fish and Wildlife Service
P.O. Box 566
Cathlamet, Washington 98612

Dear Mr. Stenvall,

On behalf of the Oregon Department of Fish and Wildlife, I am writing in regards to the U. S. Fish and Wildlife Service proposal to partner with the Columbia Land Trust in the restoration of approximately 550 acres of riparian forest and tidal marsh on Crims Island in the Columbia River estuary. The Oregon Department of Fish and Wildlife supports this project, which is to be submitted in the Northwest Power Planning Council's Lower Columbia/Estuary project solicitation for pursuit of Bonneville Power Administration fish and wildlife mitigation funding. BPA funds would be used to match U.S. Army Corp of Engineers Section 1135 dollars that are potentially available for this project.

ODFW concurs that the project will benefit many fish and wildlife species, including Federal ESA salmonids and the *Endangered* Columbian white-tailed deer. Proposed restoration of emergent tidal marsh and riparian forest, connection of restored wetlands and intertidal channels to the mainstem river, planting and seeding of native vegetation, control of non-native invasive plant species, and reintroduction and supplementation of Columbian white-tailed deer to Crims and several other nearby islands will mimic a more natural intertidal/island marsh habitat that was historically abundant in the Columbia River estuary.

The Crims Island project addresses numerous limiting factors and fish and wildlife needs identified in the Draft Lower Columbia River and Columbia River Estuary Subbasin Summary. It is consistent with and will help achieve the NWPPC's biological objectives outlined in their 2000 Columbia Basin Fish and Wildlife Program. The project addresses NMFS Biological Opinion RPA's for listed salmonids and is expected to aid in USFWS's recovery planning for the Columbian white-tailed deer. Also, the project is consistent with ODFW's vision of Oregon's fish and wildlife thriving in healthy habitats due to the cooperative efforts of Oregonians and other regional partners.

ODFW looks forward to working with the USFWS and the Columbia Land Trust as needed to accomplish these project objectives.

Sincerely,

Christopher A. Wheaton, Manager
Northwest Region
17330 S.E. Evelyn Street
Clackamas, OR 97015

Cc: Maureen Smith, USFWS

DRAFT MEMORANDUM OF AGREEMENT
BETWEEN
THE UNITED STATES ARMY CORPS OF ENGINEERS
AND
THE UNITED STATES FISH AND WILDLIFE SERVICE
FOR
ENHANCING THE FISH AND WILDLIFE RESOURCES OF THE
LOWER COLUMBIA RIVER
AT CRIMS ISLAND IN THE STATE OF OREGON

I. PURPOSE

The purpose of this memorandum of agreement (MOA) is to establish the relationships, arrangements, and general procedures under which the U.S. Fish and Wildlife Service (USFWS) and the Department of the Army, U.S. Army Corps of Engineers (USACE) will cooperate in restoring, enhancing, constructing, operating, maintaining and rehabilitating the land and water resources located on Crims Island through the Crims Island, Oregon, Section 536 Restoration Project. No funds are obligated by this MOA. Funds will be obligated by separate Task Order, subject to the availability of funds.

II. AUTHORITIES

The USACE is authorized to carry out this Section 536 Civil Works project with the USFWS under the Economy Act, 31 USC 1535. The USFWS is a fish and wildlife management agency within the U.S. Department of the Interior and enters into this agreement pursuant to and in accordance with the Fish and Wildlife Coordination Act of 1934, as amended (16 USC 661 et. seq.), the Fish and Wildlife Act of 1956, as amended (16 USC 742a-742k), and the Economy Act, 31 USC 1535.

III. BACKGROUND

Section 536 of the Water Resource Development Act of 2000, Public Law 106-541, authorizes activities necessary to protect, monitor, and restore fish and wildlife habitat. The project area is located on lands owned and managed by the USFWS as part of the National Wildlife Refuge System under the U.S. Department of the Interior. Under condition of Section 536(e) of the Water Resource Development Act of 2000, Public Law 106-541, 100 percent of the

construction cost of those fish and wildlife features at Crims Island, Oregon, Section 536 Restoration Project, are the responsibility of the USACE.

IV. GENERAL SCOPE

The project to be accomplished pursuant to this MOA shall consist of the following:

Restoration of a portion of the island to enhance and create tidal marsh, native riparian forest, and open water habitat.

V. RESPONSIBILITIES

A. The USACE is responsible for:

1. Construction: creating and enhancing fish and wildlife habitat at Crims Island.

2. Major Rehabilitation: The federal share of any mutually agreed upon rehabilitation of the project that exceeds the annual operation and maintenance requirements identified in the Integrated Feasibility Report and Environmental Assessment, and that is needed as a result of specific storm or flood events.

3. Construction Management: Subject to and using funds appropriated by the Congress of the United States, and in accordance with Section 536 of the Water Resources Act of 2000, Public Law 106-541, the USACE will construct the Crims Island, Oregon, Section 536 Restoration Project, as described in the Integrated Feasibility Report and Environmental Assessment dated April 2004, applying those procedures usually followed or applied in Federal projects, pursuant to Federal Laws, regulations, and policies. The USFWS will be afforded the opportunity to review, comment on, and concur with all modifications and change orders prior to the issuance to the contractor of the Notice to Proceed. If the USACE encounters potential delays related to construction of the project the USACE will promptly notify the USFWS of such delays.

4. Maintenance of Records: The USACE will keep books, records, documents and other evidence pertaining to costs and expenses incurred in connection with construction of the project to the extent and in such detail as will properly reflect total costs. The USACE shall maintain such books,

records, documents and other evidence for a minimum of 3 years after completion of construction of the project and resolution of all relevant claims arising there from, and shall make available at its office, at reasonable times, such books, records, documents, and other evidence for inspection and audit by authorized representatives of the USFWS.

B. The USFWS is responsible for:

1. Operation, Maintenance, and Repair: Upon completion of construction as determined by the USACE District Engineer, Portland, the USFWS shall accept the project and shall operate, maintain and repair the project as funds allow and as defined in the Integrated Feasibility Report and Environmental Assessment, Crims Island, incorporated herein as Attachment 1, dated April 2004, in accordance with Section 107(b) of the Water Resources Development Act of 1992, Public Law 102-580.

VI. LIABILITIES

Each party agrees that it will be responsible for its own acts and the results thereof and shall not be responsible for the acts of the other party and the results thereof.

VII. MODIFICATION AND TERMINATION

This MOA may be modified or terminated at any time by mutual agreement of the parties. Any such modification or termination must be in writing. Unless otherwise modified or terminated, this MOA shall remain in effect for a period of no more than 50 years after the initiation of construction of the project.

VIII. REPRESENTATIVES

The following individuals or their designated representatives shall have authority to act under this MOA for their respective parties:

Regional Chief, National Refuge System
U.S. Fish and Wildlife Service, Region 1
Portland Eastside Federal Complex
911 NE 11th Avenue
Portland, Oregon 97232

District Engineer
U.S. Army Corps of Engineers, Portland
Robert Duncan Plaza Building
PO Box 2946
Portland, Oregon 97208

IX. EFFECTIVE DATE

This MOA shall become effective when signed by the appropriate representatives of both parties.

USACE

USFWS

BY: _____
Charles S. Markham
Lieutenant Colonel, EN
Acting Commander

BY: _____
Carolyn Bohan
Regional Chief, National
Refuge System

DATE: _____

DATE: _____